

John Askew, William C. Loring, Hopkins county; John M. Lowery, H. B. Simonds, Nathaniel Parker, Levi Dodd, Hunt county; F. C. McReynolds, James Armstrong, Jefferson county; J. H. Logan, Johnson county; W. C. Barrett, McLennan county; Ely H. Foreman, Navarro county; Patrick F. Brannan, Parker county; John A. Franklin, R. C. Graves, John Terry, John H. Beaty, James C. Brown, Red River county; Wyndham Kemp, Robertson county; Joel M. Hargrove, James P. Pain, Shelby county; J. B. Hall, John Dean, E. Lindsey, Smith county; James Livingston, M. Duffy, Starr county; Thomas O. Moody, Tarrant county; A. B. Peticolas, Victoria county; Christobal Benavides, Lazaro de la Garza, Martin Gonzales, Webb county; J. C. Buchanan, A. L. Adams, W. B. Plemmons, E. G. Carter, Wood county; Henry L. Rankin, Waller county; A. Jeffries, Washington county; J. Richard Linn, Refugio county; George W. Belcher, Hill county; J. P. Smith, Tarrant county.

This being the hour for the consideration of the special order, House bill No. 146, "An act to branch the Supreme Court," together with the two reports made by the committee on the subject, it was taken up.

Senator Camp moved to adopt the majority report.

Senator Ball moved to lay the motion of Senator Camp on the table. Lost, by the following vote:

Yeas—Senators Allison, Ball, Bradshaw, Baker, Ellis, Moore, Randle and Trolinger—8.

Nays—Senators Bradley, Camp, Davenport, Dillard, Dwyer, Flanagan, Friend, Hobby, Ireland, Morris, Parker, Russell, Stirman, Swift, Trolinger and Wood—16.

Absent not voting—Senators Culberson, Erath and Ledbetter.

The question then recurred on the recommendation of the majority report on said House bill to strike out "Dallas," and insert, "Tyler."

Pending the discussion of the question, the Senate, on motion of Senator Parker, adjourned to 8 o'clock this evening.

AFTERNOON SESSION.

Senate met pursuant to adjournment. Roll called; quorum present.

The pending question was the majority report of the Committee, on House bill No. 146, "An act to branch the Supreme Court," that "Dallas" be stricken out, and "Tyler" inserted.

Senator Ball moved a call of the Senate. Call sustained. Roll called, and Senator Randle found to be absent.

On motion of Senator Ireland, the Senate adjourned to 10 o'clock A. M. to-morrow.

THIRTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, February 19, 1874. }

Senate met pursuant to adjournment. Roll called; quorum present.

Prayer by Rev. A. P. Smith, of Dallas. Journal of yesterday read, corrected, and adopted.

Senator Westfall presented a petition from citizens of Burnet county, asking the Legislature to pass a law "authorizing the police court of Burnet county to issue bonds, etc." Read and referred to the Judiciary Committee.

Senator Westfall presented a transcript from the records of Lampasas county, in regard to the county boundaries of said county. Read and referred to the Committee on Counties and County Boundaries.

Senator Ball presented a petition from citizens of Young county, asking the Legislature "to open up the Indian reservation to actual settlers." Read and referred to the Committee on Public Lands.

(Senator Wood in the chair.)

Senator Erath presented a petition from citizens of Waco, asking the Legislature "to authorize the levying by the corporation of a higher tax." Read and referred to Committee on State Affairs.

Senator Swift, chairman of Committee on Claims and Accounts, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Claims and Accounts, to whom was referred Senate bill No. 138, "An act to provide for the re-payment to James J. Gathings, of Hill county, money illegally extorted from him by the State police," have carefully examined and considered the same, and instruct me to report the said bill back, with the recommendation that it do pass.

W. H. SWIFT, Chairman.

(Mr. President in the chair.)

Senator Ball introduced a bill, entitled "An act to regulate the disposal of the public lands of the State of Texas." Read first time and referred to Committee on Public Lands.

Senator Wood introduced a bill entitled "An act to define the meaning, and give construction and effect to the twenty-first section of an act entitled 'An act of limitation,'" passed the fifth of February, A. D. 1841. Read first time and referred to Judiciary Committee.

Senator Russell introduced a bill entitled "An act to repeal 'An act in aid of the financial condition of Cameron county,'" approved March 29, 1873. Read first time and referred to Committee on Counties and County Boundaries.

Senator Friend introduced a bill entitled

"An act to validate certain agreements, filed in the office of the Secretary of State, in accordance with the requirements of what purported to be 'An act concerning private corporations,'" approved December 2, 1871. Read first time and referred to the Judiciary Committee.

Senator Hobby introduced a bill entitled "An act to protect the public revenue of the State." Read first time and referred to the Committee on Finance.

Senator Stirman, chairman Committee on State Affairs, by leave, submitted the following report.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on State Affairs, to whom was referred Senate bill No. 152, "An act to repeal all laws empowering counties, cities and towns, to levy taxes for the purpose of making donations to railroads and other corporations," have carefully examined and considered the same, and a majority of your committee instruct me to report it back, with the recommendation that it do pass.

W. B. STIRMAN, Chairman.

A message was received from the House, announcing the passage of House bill No. 128, "An act to provide for the protection of the frontier of the State of Texas against the invasions of hostile Indians, Mexicans and other marauding or thieving parties."

Senator Ireland, chairman Judiciary Committee, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary, to whom was referred Senate bill No. 155, "An act to define the duties and prescribe the powers of mayors and boards of aldermen of cities and towns," instruct me to report it back with an amendment by striking out all between sections seven and five, and recommend that the same, as amended, do pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your committee to whom was referred Senate bill No. 36, "An act to create a fund for the payment of jurors, and to regulate the disbursement of the same," beg leave to report it back with the recommendation that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your committee, to whom was referred Senate bill No. 43, "An act to regulate the quarantine of cities, towns and villages in the interior of the State," respectfully report the same back, and recommend its passage.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your committee, to whom was referred Senate bill No. 107, "An act to regulate the pay of jurors in criminals cases," instruct me to report the same back, and recommend that it do not pass.

IRELAND, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your committee, to whom was referred Senate bill No. 162, "An act to authorize the several county courts of the State to pay all the outstanding indebtedness of their several counties," having carefully examined the same, report it back, with a substitute, and recommend the passage of said substitute.

IRELAND, Chairman.

The title of the substitute referred to is, "An act to authorize the several counties of this State to raise means to pay their present indebtedness."

Hon. R. B. Hubbard, President of the Senate:

Your committee, to whom was referred Senate bill No. 77, "An act to authorize county courts to sell the public school lands belonging to their respective counties," respectfully report the same back and recommend its passage.

IRELAND, Chairman.

The unfinished business, being the consideration of House bill No. 146, "An act to branch the Supreme Court," with the recommendation of the majority report, that "Dallas" be stricken out, and "Tyler" inserted then came up, when

Senator Ball moved a call of the Senate. Call sustained.

Roll called, and Senators Ireland and Randle found to be absent.

A message was received from the House, announcing that an address to his Excellency Governor Coke, asking the removal of Judge S. B. Newcomb, Judge of the Twenty-fifth Judicial District, had been spread upon the journals of the House, and also an accompanying resolution in regard thereto, had been adopted by the House; and asking that said address and resolution be spread upon the journals of the Senate. Also, announcing that the House had appointed as a committee on said address, Messrs. Harris, Lawhon, Galvan, Murphy and Meissner.

To his Excellency, Richard Coke, Governor:

The Senate and House of Representatives of the State of Texas do hereby address your excellency, and represent and charge that one S. B. Newcomb, Judge of the Twenty-fifth Judicial District in the State of Texas, is unfit to hold the office of judge of the district court aforesaid; and we, the Senate and House of Representatives, reserving the right to hereafter prefer additional charges and causes for removal, do request that the said S. B. Newcomb be removed from his office as judge aforesaid, for the following reasons, to-wit:

First. That he, the said S. B. Newcomb, Judge of the Twenty-fifth Judicial District, is not qualified for the high office of judge as aforesaid, because he has not that knowledge of the law and the practice in the courts of this State necessary to a pro-

per discharge of the high and responsible duties of said office.

Second. That he, the said Newcomb, judge as aforesaid, did, at the term of the district court, A. D. 187-, in the county of El Paso, sustain indictments against various and sundry persons, to-wit, about one hundred persons, whose names are at present unknown, upon the charge of fornication, and did cause the said parties to be tried upon said charge, and upon a conviction of the parties did remit the fine, requiring payment alone of the costs and fees; such prosecution upon said indictments and the said acts and doings of said judge being without warrant of law and in defiance of the decisions of the Supreme Court of this State.

Third. That he, the said Newcomb, judge as aforesaid, did unlawfully arrogate to himself the power and authority to set aside and disregard the will of the people, as expressed by ballot at the election held on the second day of December, A. D. 1873, in refusing to recognize the officers elected by the people at said election for the county of El Paso, the said officers having qualified in accordance with law, and in declining to know or recognize any officer who did not hold a commission from E. J. Davis, as Governor of Texas.

Wherefore, the Senate and House of Representatives of the State of Texas do say, that because of the incompetency of S. B. Newcomb, judge of the Twenty-fifth Judicial District and his aforesaid criminal acts and doings; that he, judge as aforesaid, is unworthy to hold the high office he now occupies, and demand and request his removal therefrom; and the said Senate and the said House of Representatives, do reserve unto themselves the right to hereafter specify the necessary dates and names of parties, and to proffer such proofs as may be necessary to sustain this address.

Resolved, That the address of the Senate and House of Representatives of the State of Texas, requesting the removal of S. B. Newcomb, District Judge of the Twenty-fifth Judicial District, be entered upon the journals of both houses of this Legislature, and that said S. B. Newcomb, judge as aforesaid, be served with a copy of said address, and that citation issue requiring him, the said Newcomb, to appear before the proper committee within the time required by the rules governing such cases, and show cause why such address should not be adopted; and that a committee of three from the Senate and five from the House of Representatives be appointed to consider said address and conduct proceedings thereon.

Senator Westfall moved to suspend the call. Lost.

Senator Swift moved that Senators Ireland and Randle be excused. Lost.

Senator Dillard stated that the hour had arrived for the consideration of the special order, to-wit: the contested election case from the Thirteenth Senatorial District, and moved that the call of the Senate be suspended, in order to consider said special order. Carried.

On motion of Senator Flanagan, the Senate took a recess of five minutes to allow the sergeant-at-arms to prepare seats, desks, etc., for the parties and attorneys in the case.

At the expiration of the time allowed, the President called the Senate to order, and ordered the two reports of the committee on said case read, which was done. The following was then announced as the order of proceeding in said case:

That the attorneys for the contestant should be Messrs. Shepard & Searcy, and Peeler & Fisher; and for the contestee, Messrs. Delany and McLeary; that the attorneys for the contestant would open the argument, then the attorneys for the contestee would be heard, and the attorneys for the contestant would be allowed the closing argument.

Mr. Searcy then addressed the Senate.

On motion of Senator Ball, the Senate adjourned to 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; roll called; quorum present.

The President of the Senate announced the following Senators as the committee in the case of Judge S. B. Newcomb, of the Twenty-fifth Judicial District: Senators Russell, Dwyer and Friend.

The pending question being the contested election case from the Thirteenth Senatorial District, the Senate was addressed by the Hon. Mr. Delany on behalf of contestee. At the close of his remarks, Hon. Mr. McLeary addressed the Senate on behalf of contestee. Mr. Peeler then addressed the Senate on behalf of contestant.

On motion of Senator Swift, the Senate adjourned to 10 A. M., to-morrow.

THIRTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, February 20, 1874. }

Senate met pursuant to adjournment. Roll called; quorum present.

Prayer by Rev. Dr. Young, of Sherman. The journal of yesterday was read and adopted.

Senator Westfall presented the petition of